HONOURABLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.25072 OF 1998

Dated 26th September, 2007

Between:

Syed Ali Shahreyar.

...Petitioner.

And:

1. The Commissioner of Land Reforms & Urban Land Ceilings, Andhra Pradesh, Hyderabad and others.

..Respondents.

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ORDER:

This writ petition is filed for a writ of mandamus seeking to quash Memo No.70960/UC.II (2)/97-2 dated 25-6-1998 issued by Respondent No.3.

The petitioner was declared as holding surplus land of an extent of 1000 square meters of vacant land under the provisions of Andhra Pradesh Urban Land (Ceiling and Regulation) Act, 1976 (For short "the Act") in the year 1997. A final order under Section 8 (4) and the statement under section 9 of the Act were issued on 14.9.1978 confirming the provisional order. The petitioner was finally declared to have been holding surplus land to an extent of 1298 square meters at the stage of section 10 (5) of the Act.

In view of the judgment of the Supreme Court in SMT. MEERA GUPTA VS. STATE OF WEST BENGAL AND OTHERS ([1]), the petitioner made an application on 28.7.1997 with a request to the Special Officer and competent authority, Urban Land Ceiling, Hyderabad to exempt an extent of 817 square meters of land from the provisions of

the Act with the built up area along with appurtenant land of a dwelling house and additional appurtenant land which is described as protected area under Section 4 (1) of the Act, the vacant land comes to only 667 square meters i.e., within the ceiling limits under the Act. The Special Officer vide his proceedings dated 28-8-1997 forwarded the said application to the Commissioner, Land Reforms and Urban Land Ceilings, Andhra Pradesh-1st respondent herein with a request to seek appropriate orders from the Government in terms of its Memo No.73489/UC/I (1)/93-4 dated 15-2-1994. Accordingly, the Commissioner of Land Reforms vide his proceedings dated 13-10-1997 sought for appropriate orders from the Government. The Principal Secretary to the Government vide impugned memo dated 25-6-1998 rejected the application of the petitioner. Questioning this order, the present writ petition is filed.

Heard Sri S. Sreenivas Reddy, learned counsel for the petitioner and the learned Assistant Government Pleader for assignments, appearing for respondents 1 and 2.

The learned counsel for the petitioner submits that in view of the positive recommendations made by the Special Officer and the Commissioner in terms of the Government's Memo dated 15-2-1994 whereunder it has been decided to give effect to the judgment of the Supreme Court in Meera Gupta (1 supra) by excluding the protected area from the holding of the land holder, it is incumbent upon respondent No.3 to have excluded the extent of 1817 square meters of land which is occupied by the Structures along with the plinth appurtenant and additional appurtenant land. But, the impugned memo does not contain any reasons whatsoever and therefore, it is liable to be set-aside on this ground alone.

On the other hand, the learned Assistant Government Pleader sought to sustain the impugned order on the ground that the 3rd respondent exercised its discretion in accordance with law and therefore, it needs no interference by this Court.

I have carefully considered the submissions of the learned counsel.

It is not in dispute that the Special Officer and the competent

authority-Respondent No.2 in his letter addressed to the Commissioner gave elaborate reasons in support of his recommendations to the effect that the petitioner is entitled to exemption to an extent of 1817 square meters of land following the judgment of the Supreme Court in Meera Gupta (1 supra).

I have carefully perused the Memo dt.25-6-98, impugned in this writ petition. Except making a bald statement to the effect that the Government after careful examination rejected the proposal of the Special Officer and the competent authority-Urban Land Ceiling, Hyderabad for revision of Section 8 (4) orders, no reasons have been assigned in the impugned memo. It is a well settled proposition that giving of reasons is a fact of the principles of natural justice and the order under challenge which is bereft of any reasons whatsoever is therefore cannot be sustained in law and it is accordingly set aside. However, the respondent No.3 is directed to review the application of the petitioner in lieu of the recommendations made by respondents 1 and 2 and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order after affording an opportunity to the petitioner.

Subject to the above direction, the writ petition is allowed. No costs.

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Justice C.V.NAGARJUNA REDDY

Dated 26th September, 2007.
Dvs

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[1] AIR 1992 SC 1567